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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/087,939	02/27/2002	Deanna Lynn Quigg Brown	AUS920010896US1	5277	
46073	7590	09/25/2006	EXAMINER		
IBM CORPORATION (VE)				HSU, ALPUS	
C/O VOEL EMILE				ART UNIT	
P. O. BOX 162485				2616	
AUSTIN, TX 78716				PAPER NUMBER	

DATE MAILED: 09/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/087,939	BROWN ET AL.	
	Examiner Alpus H. Hsu	Art Unit 2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 09 August 2006.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1,4-6,9-11,14-16,19 and 20 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1, 4-6, 9-11, 14-16, 19 and 20 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____. 	6) <input type="checkbox"/> Other: _____

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1. The abstract of the disclosure is objected to because the replacement page of the abstract filed February 14, 2006 contains characters/words that are not recognizable for printing. The applicant should resubmit the substitute page.
2. The indicated allowability of claims 3, 8, 13 and 18 is withdrawn in view of the newly discovered reference(s) to ALKHATIB in U.S. Patent No. 6,119,171 A in view of MALAGRINO et al. in U.S. Patent No. 6,714,985 B1. Rejections based on the newly cited reference(s) follow.
3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1, 4-6, 9-11, 14-16, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over ALKHATIB in U.S. Patent No. 6,119,171 A, hereinafter referred to as ALKHATIB, in view of MALAGRINO et al. in U.S. Patent No. 6,714,985 B1, hereinafter referred to as MALAGRINO.

Referring to claims 1, 4-6, 9-11, 14-16, 19 and 20, ALKHATIB discloses a method, apparatus, system, and a computer program product for maintaining a two-byte identification field (34 in Figure 2) of an Internet protocol (IP) header of a packet, the packet being transmitted over an Ethernet network (see col. 7, lines 6-31), by determining whether the a packet is permitted to be fragmented before being transmitted over the network, and using a non-unique identification number in the IP header if the packet is not permitted to be fragmented (see col. 5, line 37 to col. 6, line 15).

ALKHATIB differs from the claims, in that, it does not disclose the feature of setting a re-assembly timer, which is well known device for packet reassembly. MALAGRINO, for example, from the similar field of endeavor, teaches the use of a re-assembly timer for packet reassembly (see col. 8, lines 16-55), which can be easily adopted by one of ordinary skill in the art into the method, apparatus, system, and a computer program product in ALKHATIB, to provide timing for data reassembly to further improve the system efficiency. Furthermore, MALAGRINO also fails to set specific timer value of 30 seconds, which is well within the level of ordinary skill in the art to implement to meet the system design requirement.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Leung et al., Baroudi, and Bilic et al. are cited to show the common feature of data frame reassembly utilizing IP packet header for data routing similar to the claimed invention.

Alkhatib '623, '217 & '227 are all cited to show the specific two-byte identification field of IP header in data packet for indication of whether packet is permitted to be fragmented similar to the claimed invention.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alpus H. Hsu whose telephone number is (571)272-3146. The examiner can normally be reached on M-F (5:30-3:00) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on (571)272-3134. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AHH



Alpus H. Hsu
Primary Examiner
Art Unit 2616